

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of:

**TCC Properties-East, LLC,
and TCC East, LLC,**

Respondents.

HUDALJ 10-M-201-CMP/27

ORDER GRANTING GOVERNMENT’S MOTION FOR DISMISSAL

The United States Department of Housing and Urban Development (“HUD”) filed a Complaint for Civil Money Penalties (“Complaint”) on September 8, 2010, seeking penalties from Respondents for their alleged failure to submit timely audited annual financial reports for covered property, pursuant to 12 U.S.C. § 1735f-15 and 24 C.F.R. Part 30. To date, Respondents have not filed a request for a hearing nor a response to the allegations in the Complaint.

On October 12, 2010, the Government’s Motion for Default Order was filed, wherein HUD argued that because Respondents did not answer the Complaint in any way, it should be found in default, and the penalty as set forth in the Complaint should be imposed against Respondents. Thereafter, on October 29, 2010, the Government’s Motion for Dismissal was filed, in which HUD requests the case be dismissed with prejudice, as the parties “have been able to come to a resolution of this matter without further litigation.” Respondents’ Managing Partner, Vicki P. Rollins, subsequently filed a letter on November 9, 2010, writing that Respondents “were able to come to a resolution of the above-mentioned matter, without further litigation. Both parties agreed to seek dismissal of this case.”

The applicable regulations at 24 C.F.R. Part 26 provide as follows:

If a party fails to prosecute or defend an action brought under subpart B of this part, *the ALJ may dismiss the action* or may issue a decision against the non-prosecuting or defending party. Such decision of the ALJ shall constitute final agency action and shall not be appealable to the Secretary under § 26.52 of this part.

24 C.F.R. § 26.34(d) (emphasis added). Here, HUD requests that the proceeding it initiated by filing the Complaint be dismissed with prejudice. Respondent never requested a hearing or challenged those allegations, yet the Government independently moved to dismiss the same without a determination on the merits.

Consistent with Section 26.34(d) and with the general authorities of the presiding Administrative Law Judge in 24 C.F.R. § 26.32, the Government's Motion is hereby **GRANTED** and the proceeding is **DISMISSED** with prejudice.



Susan L. Biro
Chief Administrative Law Judge¹

Dated: November 10, 2010
Washington, D.C.

¹ The Administrative Law Judges of the United States Environmental Protection Agency are authorized to hear cases pending before the United States Department of Housing and Urban Development pursuant to an Interagency Agreement in effect beginning March 4, 2010.